

OKLAHOMA EASTERN DISTRICT BANKRUPTCY
NEWSLETTER
January 24, 2006

We hope you have all had the opportunity to get some rest and settle down after the huge onslaught of cases filed in September and October. During September, and up until October 17th, we had 3300 cases filed as compared to 837 filed in 2004 during September and October. This was a 300 per cent increase in filings so we realize all of you were quite busy during this time frame. Congratulations to all the attorneys and trustees for doing such a great job in getting through this hectic period.

BROWN BAG LUNCH MEETING:

As you know, we had some brown bag lunch meetings regarding BAPCPA prior to the Act taking effect. There has been some interest and requests that an additional brown bag seminar take place now that people have had the opportunity to learn the law and put it into practice. Therefore, we will have a meeting to discuss issues regarding BAPCPA on **February 1st beginning at 11:30 a.m.** The meeting will take place in the courtroom at the Bankruptcy Court in Okmulgee. We will have representatives from the U.S. Trustee's office, the panel trustees and the Clerk's office. Please feel free to e-mail any suggested topics you would like discussed and feel free to ask questions that you would like addressed. Please send those e-mails to Therese_Buthod@okeb.uscourts.gov or Katherine.Vance@usdoj.gov.

CM/ECF TRAINING:

Since we began providing training to attorneys and their staff on CM/ECF, many of you have had new staff members join your offices. We

are, therefore, opening additional training sessions for anyone that would like either a refresher CM/ECF training, or who have not had the opportunity to obtain CM/ECF training. We have two February training dates. Those dates are February 7th and February 28th. The training will begin at 8:30 a.m. Attorneys who have not previously received CLE credit may receive four hours credit for the training, including one-half hour ethics. If any of you or your staff are interested in signing up for training, please go to our website at www.okeb.uscourts.gov and sign up for training. This training is not training on the new law, it is the training on how to file electronically.

REAFFIRMATION AGREEMENTS:

We wanted to remind all of you that there is a new reaffirmation agreement form that took effect for cases filed after October 17th. For cases filed prior to October 17th, you may still use the old reaffirmation form. However, for any cases filed after October 17th, please use the new reaffirmation forms. These forms require more information than was on the previous forms and therefore, must be used in order for the reaffirmation agreement to be approved. When filing electronically, you will have the option under the event, ***Other/Reaffirmation Agreement***, to pick whether you need the reaffirmation form for cases under the New Act or cases under the old Code. Reaffirmation Agreements for the cases under the New Act will require additional questions to be responded to in the docketing process.

CREDIT COUNSELING AND DEBTOR EDUCATION:

There has been some confusion regarding the credit counseling and debtor education (financial management) classes. The credit counseling must be obtained prior to filing a case and the financial management class must be obtained after the case is filed. If the financial management class is not obtained, there will not be a discharge granted in the case. Some of the attorneys have been filing the Debtor Education Certificate rather than the Credit Counseling Certificate at the time the petition is filed. Therefore, please make sure when filing a new petition, that you file the Credit Counseling Certificate rather than the Debtor Education Certificate.

The U.S. Trustee's office has asked that we forward the following information to all the attorneys regarding the certificates for both of these courses.

"On January 9, 2006, the United States Trustee Program went 'live' with a web-based certificate for both Credit Counseling and Debtor Education. Certificates issued after that date must be the web-based certificate. Non web-based certificates issued before January 9, 2006, are acceptable and can be filed with the bankruptcy court.

The change to web-based certificates does not affect attorneys or their debtor clients. The process is the

same as before. Certificates are not to be filed with the bankruptcy court by the Agency/Provider. The certificate must be delivered to the recipient of the services or to his or her attorney, if requested, for filing with the bankruptcy court."

SOME PROCEDURAL REMINDERS:

1. Please remember when you are preparing orders for the Judge's signature, to leave the four inch margin at the top of the order, as this is where the electronic signature is placed.

2. On agreed orders or other places where signature lines are necessary, remember to utilize /S/ (*Name Listed Here*) as the proper signature form.

3. On your certificates of mailing, you should either attach the Notices of Electronic Filing from the documents you are stating were mailed, or if you do not attach the NEF's, then you should list who you actually mailed and e-mailed the pleading to, designating which ones received it via e-mail and which ones received it via U.S. Mail.

4. Remember not to file the Form 21, as this will send the social security number of the debtor out to everyone and be available publicly. The Form 21's must be retained in your office, but do not need to be filed.

5. Under BAPCPA, debtors are to provide their tax returns to the trustees prior

to the 341 meeting. These tax returns should not be filed with the court. There are certain circumstances when they will be filed with the court upon the request of a party, but the requirement to submit the tax returns to the trustee does not necessitate that they be filed with the court.

6. One of the new requirements under BAPCPA is to file the payment advices or other evidence of payment received within sixty days before the filing of the petition. Please file some type of affidavit or statement, showing that there are no such payment advices if your client has not had any work that has provided payment, otherwise, the case may be dismissed, thinking that the requirement was not met.

7. Pursuant to 521 (a)(1)(B)(vi), the debtors shall file “a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition”. This requirement is addressed in the new Schedule “T” form. One of the trustees has requested that the attorneys not leave the section in Schedule “T” blank and should state “I do not anticipate any increase in income or expenditures in the next 12 months” if there is no anticipated increase.

8. When you need to send pleadings to the matrix, please remember to pull up the matrix from CM/ECF each time. This is necessary because the address for the creditors may be changed, based on creditors’ ability to list the address for notice with any court. To pull up the most current addresses, go to: ***Reports/Mailing Matrix Labels by Case.***

9. If you are filing a case that has

only a 30-day stay, based on one prior dismissal in the past year, and you are desiring that the stay be continued past the 30 days, please file your Motion for Continuation of Stay at the time the Petition is filed. In addition, the motion should be specific enough to provide information to the court that would prove by clear and convincing evidence, sufficient facts to rebut the presumption that the case was not filed in good faith.

CREDIT ABUSE RESISTANCE EDUCATION:

Our court is providing a training program to high school students, preferably seniors, as well as young adults, regarding credit abuse resistance. The program is geared primarily toward responsible use of credit and how bankruptcy courts are seeing many young people filing bankruptcy. If you are aware of any schools that would like to have the CARE program presented, please contact Therese Buthod. The program consists of discussion, a film and power point demonstration and question and answer period for the students. In addition, some of the programs we have given have involved the students coming to court and watching a docket and then the CARE program was provided to the students following the docket. In addition, if any of you are interested in presenting the program yourself, we would be happy to provide a training program for potential CARE Program presenters. The schools where we have given the CARE Program, have been very receptive and the students have been interested and have said it was a helpful presentation. We have also presented programs for younger children, ages kindergarten through third or fourth grade

where we do a mock trial in the court so that children have an opportunity to watch court and some of the children also act as jurors in the case. If any of you are interested in having that presentation, please let Therese know that as well. This is a presentation that will take place in the courtroom at Okmulgee. The CARE programs may take place at the student's school or in the courthouse.